

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

SALVADOR ROLAND CHAVEZ SOL,

Plaintiff,

v.

SAN FRANCISCO COUNTY JAIL  
FACILITY,

Defendant.

Case No. 20-cv-01901-RMI

**ORDER OF DISMISSAL WITH LEAVE  
TO AMEND**

Re: Dkt. No. 1

Plaintiff, a detainee, filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. He has been granted leave to proceed in forma pauperis (dkt. 5) and has consented to the jurisdiction of a Magistrate Judge (dkt. 4).

**DISCUSSION**

**Standard of Review**

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). *Pro se* pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only “a short and plain statement of the claim showing that the pleader is entitled to relief. Specific facts are not necessary; the statement need only “give the defendant fair notice of what the . . . claim is and the grounds upon which it

rests.”” *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations omitted). Although in order to state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to provide the ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. Factual allegations must be enough to raise a right to relief above the speculative level . . . .” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). A complaint must proffer “enough facts to state a claim to relief that is plausible on its face.” *Id.* at 570. The United States Supreme Court has recently explained the “plausible on its face” standard of *Twombly*: “While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged deprivation was committed by a person acting under the color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

### Legal Claims

It is difficult to discern much of Plaintiff’s complaint. The complaint will be dismissed with leave to amend to provide more information and a clearer description of his claims. Plaintiff must identify the specific defendants by name and describe how they violated his constitutional rights. For example, with respect to Plaintiff’s medical claim he must identify the defendant that provided him with the medication, why he was provided with the medication, and more information about whether he suffered a heart attack or other medical problems as a result. Plaintiff must also write legibly so that the court can understand his allegations.

### CONCLUSION


The complaint is **DISMISSED** with leave to amend in accordance with the standards set forth above. The amended complaint must be filed within **forty-two (42) days** of the date this order is filed and must include the caption and civil case number used in this order and the words

1 AMENDED COMPLAINT on the first page. Because an amended complaint completely replaces  
2 the original complaint, Plaintiff must include in it all the claims he wishes to present. *See Ferdik v.*  
3 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). He may not incorporate material from the original  
4 complaint by reference. Failure to amend within the designated time will result in the dismissal of  
5 this case.

6 It is Plaintiff's responsibility to prosecute this case. Plaintiff must keep the court informed  
7 of any change of address by filing a separate paper with the clerk headed "Notice of Change of  
8 Address," and must comply with the court's orders in a timely fashion. Failure to do so may result  
9 in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure  
10 41(b).

11 **IT IS SO ORDERED.**

12 Dated: April 17, 2020

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15 ROBERT M. ILLMAN  
16 United States Magistrate Judge  
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